

## Message Text

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ACTION EB-08

INFO OCT-01 IO-13 ISO-00 AGRE-00 CEA-01 CIAE-00  
COME-00 DODE-00 FRB-03 H-01 INR-07 INT-05 L-03  
LAB-04 NSAE-00 NSC-05 PA-01 AID-05 SS-15 STR-04  
ITC-01 TRSE-00 USIA-06 PRS-01 SP-02 OMB-01 FEA-01  
STRE-00 AF-08 ARA-06 EA-07 EUR-12 NEA-10 OIC-02  
/133 W

-----230416Z 041349 /67

P R 221619Z MAR 77  
FM USDEL MTN GENEVA  
TO SECSTATE WASHDC PRIORITY 2338  
INFO ALL OECD CAPITALS 178

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PASS AGRICULTURE AND STR ELECTRONICALLY

H PASS CODEL

E.O. 11652: N/A  
TAGS: ETRD, MTN, EAGR, EEC  
SUBJECT: U.S.-EC CONSULTATIONS ON AGRICULTURAL NOTIFICATIONS

REF: 76 MTN GENEVA 2791

1. SUMMARY. ON MARCH 17 AND 18 WE HAD INTENSIVE CONSULTATIONS WITH THE EC AND EC MEMBER STATES ON THE PRODUCTS AND MEASURES NOTIFIED BY EACH SIDE UNDER THE GROUP AGRICULTURE PROCEDURES. ALTHOUGH THE EC OFTEN USED POLEMICAL LANGUAGE IN DESCRIBING U.S. POLICY MEASURES, THE CONSULTATIONS ENDED ON A WARM NOTE WITH BOTH DELEGATIONS 8, (INCLUDING MEMBER STATE REPRESENTATIVES) EXPRESSING THE HOPE THAT THE AMICABLE SPIRIT WHICH HAD PERMEATED THIS TWO-DAY MEETING WOULD ALSO PREVAIL IN THE COURSE OF THE FUTURE NEGOTIATIONS. THE GENERAL NATURE OF EC COMMENTS ON U.S. POLICY MEASURES REFLECTED THE LACK OF SPECIFICITY IN THE PRESENT EC NEGOTIATING MANDATE. A  
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NEW NUANCE IN THE PRESENTATION OF THE OTHERWISE WELL-KNOWN EC VIEWS WERE REPEATED APPEALS TO U.S. RESPONSIBILITY FOR THE MAINTENANCE OF WORLD TRADE THAT REFLECTED AN UNUSUAL EC CONCERN THAT THE U.S. COULD AGAIN RESORT TO EXPORT EMBARGOS.

2. THE EC DEL WAS LED BY JACQUOT ASSISTED BY SEVERAL COMMISSION EXPERTS. IN THE CONSULTATIONS ON MEASURES MAINTAINED BY THE

MEMBER STATES BOTH THE COMMUNITY SPOKESMAN AND MEMBER STATE REPRESENTATIVES INTERVENED IN THE DEBATE. U.S. DEL WAS LED BY KOENIG. BOTH DELS INDICATED THAT THEY MIGHT MAKE ADDITIONAL NOTIFICATIONS. THEY AGREED TO DISCUSS AT A LATER DATE THE FORMAT AND CONTENT OF THE REPORT TO BE SUBMITTED TO GROUP AGRICULTURE. THIS CABLE DEALS WITH THE CONSULTATIONS ON EC NOTIFICATIONS AGAINST THE U.S. A SEPARATE CABLE WILL DEAL WITH U.S. NOTIFICATIONS AGAINST THE EC. END SUMMARY.

3. IN INTRODUCING THE EC NOTIFICATIONS TO THE U.S., THE EC DEL STATED THAT BOTH PARTNERS AS THE WORLD'S LARGEST IMPORTER AND EXPORTER OF AGRICULTURAL PRODUCTS HAVE SPECIAL RESPONSIBILITY FOR THE MAINTENANCE AND EXPANSION OF WORLD AGRICULTURAL TRADE. THE U.S., HOWEVER, HAS PRIMARY RESPONSIBILITY SINCE IT IS THE MAJOR PURVEYOR OF ESSENTIAL COMMODITIES. EC EXPRESSED REPEATEDLY CONCERN LEST THE U.S. RESORT AGAIN TO EXPORT RESTRICTIONS. THE EC ACKNOWLEDGED THAT THE U.S. IS THE EC'S MOST IMPORTANT FOREIGN AGRICULTURAL MARKET, BUT REGRETTED THAT IN SPITE OF RISING EC FARE EXPORTS TO THE U.S. THE IMBALANCE IN THE EC-U.S. AGRICULTURAL TRADE IS GROWING. THE U.S. ACKNOWLEDGED JOINT RESPONSIBILITY FOR THE DEVELOPMENT OF WORLD AGRICULTURAL TRADE AND STATED THAT EC'S RESPONSIBILITY IN THIS REGARD IS NO LESS THAN THAT OF THE U.S., PARTICULARLY WHEN WORLD MARKETS ARE IN DISEQUILIBRIUM. U.S. FURTHER STATED THAT THERE IS NO REASON WHATSOEVER TO FEAR U.S. EXPORT EMBARGOS. WE FURTHER NOTED THAT A BALANCING OF BILATERAL TRADE FLOWS IN THE AGRICULTURAL SECTOR IS NOT CALLED FOR IN A MULTILATERAL TRADE NETWORK.

4. SECTION 22 AND THE GATT WAIVER -- EC DEVOTED CONSIDERABLE LIMITED OFFICIAL USE

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TIME TO A CRITIQUE OF SECTION 22 AND THE U.S. GATT WAIVER. THEY USED TWO BASIC ARGUMENTS: FIRST, THE LIBERALIZATION OF FORMERLY RESTRICTED ITEMS REPRESENTS MERELY A SUSPENSION, NOT AN ABOLITION OF SECTION 22 QR'S, AND THAT QUOTAS COULD BE REINTRODUCED AT ANY TIME; SECOND, THE U.S. HAD NEVER PAID FOR THE GATT WAIVER WHICH THEY CONSIDER OUTDATED AND WHICH SHOULD BE ABOLISHED TOGETHER WITH THE SECTION 22 IMPORT QUOTAS. FINALLY, THEY ARGUED THAT THE WAIVER ENABLES THE U.S. TO AVOID ITS GATT OBLIGATIONS ON PRACTICALLY ALL AGRICULTURAL IMPORTS, AND THIS WHOLESAL EVASION OF OBLIGATIONS CREATES AN IMBALANCE BETWEEN RIGHTS AND OBLIGATIONS IN THE GATT. WE REPLIED THAT THE DISTINCTION BETWEEN SUSPENDING AND ABOLISHING A QUOTA CANNOT DETRACT FROM THE FACT THAT MANY PRODUCTS PREVIOUSLY SUBJECT TO SECTION 22 QR'S HAVE BEEN PROGRESSIVELY LIBERALIZED. WE POINTED OUT THAT THE GATT WAIVER AND SECTION 22 ACTIONS ARE NOT NECESSARILY IDENTICAL. WE HAVE, IN FACT, TERMINATED MANY QR'S WITHOUT TERMINATING THE WAIVER AND COULD CONVERSELY TERMINATE THE WAIVER WHILE MAINTAINING CERTAIN IMPORT RESTRICTIONS WHICH MIGHT BE JUSTIFIABLE UNDER VARIOUS GATT PROVISIONS. WE ALSO SAID THAT THE

GRANTING OF A WAIVER DOES NOT REQUIRE ANY PAYMENT AND LEAVES THE CP'S FREE TO INVOKE ARTICLE XXIII PROCEDURES. WE FINALLY POINTED OUT THAT SECTION 22 IS RELATED TO SUPPORT PROGRAMS COVERING LESS THAN HALF OF U.S. AGRICULTURAL OUTPUT IN CONTRAST TO THE CAP WHICH SUPPORTS MORE THAN NINE-TENTHS OF EC'S FARM OUTPUT. THE CAP, THEREFORE, AFFORDS IMPORT PROTECTIO TO A MUCH LARGER PROPORTION OF FARM OUTPUT.

5. IN THAT PART OF THE CONSULTATIONS, THE EC REFERRED ONLY TO QUOTAS ON CHOCOLATE CRUMB AND BUTTER SUBSTITUTES, BUT NOT IN DETAIL TO THE MAJOR DAIRY PRODUCTS SUBJECT TO U.S. IMPORT QUOTAS.

6. U.S. TARIFFS -- THE EC DEL ACKNOWLEDGED THAT MANY OF THE TARIFF ITEMS THEY NOTIFIED REPRESENT PRODUCTS NOT EXPORTED FROM THE EC TO THE U.S. THEY EXPLAINED THAT THEY HAVE NEVERTHELESS MADE THESE NOTIFICATIONS ON THE ONE HAND IN ORDER TO ASSERT THE PRINCIPLE THAT GROUP AGRICULTURE IS ALSO COMPETENT FOR TARIFFS; LIMITED OFFICIAL USE

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AND ON THE OTHER, TO "CAUSE THE U.S. THE SAME GUILT COMPLEXES THE EC SOMETIMES EXPERIENCES" ON ACCOUNT OF THEIR HIGH IMPORT PROTECTION. ACCORDING TO THE EC, THE HIGH U.S. TARIFFS ON FRUIT JUICES, CERTAIN LIQUORS, POTATO STARTCHES, AND PARTICULARLY OILSEEDS, OILS AND OILCAKES, CAUSE DISTORTIONS IN INTERNATIONAL TRADE. THE EC DWELLED AT SOME LENGTH ON THE DIFFICULTY OF EXPORTING PEANUT OIL TO THE U.S. BUT DENIED THAT THEY WOULD MAKE A REQUEST FOR A REDUCTION OF U.S. PROTECTION ON THIS PRODUCT. THE EC DEL CONCLUDED THIS TOPIC WITH A LENGTHY STATEMENT ON THE INEQUITABLE U.S. TREATMENT OF FRENCH COGNAC WHICH CULMINATED IN THE ASSERTION THAT U.S. DUTIES ON FRENCH COGNAC ARE NOW HIGHER THAN EVER BEFORE. WHEN REBUTTED ON SEVERAL POINTS THE EC SPOKESMAN, HAVING APPARENTLY GIVEN SATISFACTION TO THE FRENCH DEL PRESENT, DID NOT PURSUE THIS POINT.

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7. U.S. TRADE ACT -- THE EC INVEIGHED AGAINST THE TRADE ACT, IN PARTICULAR AGAINST SECTION 201 AND SECTION 301. THE FORMER, THEY SAID, CREATES CONTINUOUS UNCERTAINTY AMONG EXPORTERS; THE LATTER, THE EC DEL STATED, IS CONTRARY TO THE SPIRIT AND LETTER OF GATT. "IT IS AN INSTRUMENT OF ATTACK AGAINST THE CAP." WE POINTED OUT THAT ALL COUNTRIES HAVE ESCAPE CLAUSE PROCEDURES; THAT NOTHING IN SECTION 301 CAN BE CONSTRUED AS CALLING FOR U.S. ACTION IN VIOLATION OF GATT; THAT THE VARIOUS ACTIONS TAKEN UNDER THIS TRADE ACT PROVISION RESULTED FROM THE COMPLAINTS OF PRIVATE PARTIES AND NOT FROM A DELIBERATE POLICY DECISION; AND THAT SOME OF THESE COMPLAINTS HAVE BEEN CHanneLED INTO THE GATT FORUM. FINALLY, WE STATED CATEGORICALLY THAT U.S. ACTIONS ARE NOT AN ATTACK ON THE CAP AND THAT WE ARE TIRED OF HEARING THIS MEANINGLESS REPROACH.

8. COUNTERVAILING DUTIES -- THE SYSTEM AND PRACTICE OF U.S.  
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COUNTERVAILING DUTIES WAS THE SUBJECT OF SPECIAL EC COMPLAINTS. THE EC STATED THAT COUNTERVAILING DUTIES IMPOSED BY THE U.S. ARE NO LONGER JUSTIFIED UNDER THE GATT GRANDFATHER CLAUSE. JACQUOT STATED THAT BECAUSE THE BASIC U.S. CVD LEGISLATION WAS AMENDED BY THE TRADE ACT, IT WAS NO LONGER PROTECTED BY THE GATT PROTOCOL OF PROVISIONAL ACCESSION. HENCE, U.S. CVD'S WERE A GATT VIOLATION CREATING AN IMBALANCE IN GATT RIGHTS AND OBLIGATIONS. SINCE THE EC IS THE PRIMARY BENEFICIARY OF THE U.S. WAIVER AUTHORITY, WE FOUND IT ODD THAT THE EC COMPLAINED AT SOME LENGTH ABOUT THE WAIVERS. SPECIFICALLY, THE EC STATED THAT THE TEMPORARY WAIVERS FOR U.S. COUNTERVAILING DUTY ACTIONS ARE APPLIED IN A WAY WHICH DISCRIMINATES AGAINST THE COMMUNITY. WE REJECTED THE EC'S CONTENTION CONCERNING THE NON-APPLICABILITY OF THE GRANDFATHER CLAUSE WITH WELL KNOWN ARGUMENTS. IN ADDITION, WE WONDERED ALOUD WHY THE EC IS SO STRONGLY OPPOSED TO COUNTERVAILING DUTY ACTIONS IN VIEW OF THE FACT THAT THE VARIABLE LEVY SYSTEM IS ITSELF A

SYSTEM OF COUNTERVAILING AGAINST SUBSIDIZED AND UNSUBSIDIZED IMPORTS REGARDLESS OF INJURY. IN ADDITION, THE CAP FOR FRUITS AND VEGETABLES SIMILARLY PROVIDES FOR A SYSTEM OF COUNTERVAILING CHARGES WHICH ARE BEING APPLIED WITHOUT PROOF OF INJURY. WE NOTED THE SPECIFIC CRITERIA TO BE MET BEFORE CVD'S CAN BE TEMPORARILY WAIVED, AND WE INVITED THE EC DEL TO SUBMIT SPECIFIC EXAMPLES OF ALLEGED DISCRIMINATION IN THE U.S. TEMPORARY WAIVER OF COUNTERVAILING DUTIES.

9. WINE GALLON/PROOF GALLON -- THE DISCUSSION ON THE "PROOF GALLON" NOTIFIED BY THE EC WAS BRIEF TO THE DISAPPOINTMENT OF THE UK DEL (WHICH HAD SENT AN EXPERT FROM LONDON SPECIFICALLY FOR THE CONSULTATIONS ON THIS AGENDA ITEM). THE EC DEL GAVE A DESCRIPTION OF THE PROOF GALLON SYSTEM AND THE SYSTEM OF LEVYING EXCISE TAXES WHICH WE ACKNOWLEDGED AS BEING SUBSTANTIALLY CORRECT. WE STATED THE PROBLEM IS WELL KNOWN TO US AND THAT THE OBVIOUS EC DESIRE FOR THE ABOLITION OF THE PROOF GALLON EXCISE TAX AND DUTY ASSESSMENT SYSTEM WILL BE REPORTED TO OUR AUTHORITIES. WE SAID THAT WHILE U.S. IS WILLING TO CONSULT WITH THE EC UNDER AG/4 PROCEDURES, THE U.S. DOES NOT CONSIDER THE PRODUCTS IN LIMITED OFFICIAL USE

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QUESTION TO BE AGRICULTURAL PRODUCTS. WE BELIEVE THAT THE DUTY ASPECTS OF THE PROBLEM SHOULD BE DEALT WITH BY THE TARIFF GROUP AND THE NON-TARIFF MEASURE ASPECTS OF THE PROBLEM BY THE NTM SUBGROUP. EC SAID THIS ISSUE OF UTMOST IMPORTANCE TO THEM

10. U.S. EXPORT AIDS -- EC COMPLAINED (RATHER MILDLY) THAT WHILE U.S. HAS SUSPENDED DIRECT SUBSIDIES, IT MAINTAINS A SERIES OF INDIRECT EXPORT AIDS, NAMELY FAS MARKET DEVELOPMENT ACTIVITIES; THE CCC EXPORT CREDIT PROGRAM AND PL 480. WHILE EC OBVIOUSLY BELIEVES

HAT AT LEAST THE TWO LAST MENTIONED U.S. PROGRAMS ARE MEANS OF EXPORT SUBSIDIZATION, EC DEL APPARENTLY MENTIONED THESE SUBJECTS MORE FOR THE RECORD THAN IN AN ATTEMPT TO SERIOUSLY COMPLAIN ABOUT THEM.

11. TECHNICAL NTM'S -- IN CONTRAST TO THE AFOREMENTIONED TOPICS, THE WRITTEN EC NOTIFICATIONS TO THE U.S. ON NON-TARIFF MEASURES OF A TECHNICAL NATURE WERE PRECISE AND LISTED WITH REFERENCE TO SPECIFIC BTN NUMBERS. HOWEVER, IN THE CONSULTATIONS THE EC DEALT WITH THIS ISSUE IN A SUPERFICIAL AND PERFUNCTORY WAY. THEY QUOTED A FEW EXAMPLES FOR PRODUCTS WHOSE EXPORTS TO THE U.S. ARE HAMPERED BY TECHNICAL NORMS WITHOUT GETTING INTO DETAILS AND WITHOUT EMPHASIZING TOO MUCH EC CONCERN WITH THESE PROBLEMS.

12. A SECOND CABLE WILL REPORT ON THE EC-U.S. CONSULTATIONS ON PRODUCTS AND MEASURES NOTIFIED BY THE U.S. TO THE EC. CULBERT

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## Message Attributes

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**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** N/A  
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**TAGS:** ETRD, EAGR, US, EEC  
**To:** STATE  
**Type:** TE  
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**Review Markings:**  
Margaret P. Grafeld  
Declassified/Released  
US Department of State  
EO Systematic Review  
22 May 2009  
**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009